

II.

JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d). Venue is proper in this District Court, particularly its unofficial southern district, pursuant to 28 U.S.C. § 1391(b) as the subject matter of the alleged debt is located in Clark County, Nevada.

III.

PARTIES

3. Plaintiff is a natural person who resided in Clark County, Nevada.

4. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3).

5. Defendant is a corporation engaged in the business of collecting debts by use of the mails and telephone, and Defendant regularly attempts to collect debts alleged to be due another.

6. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6) trying to collect a “debt” as defined by 15 U.S.C. §1692(a)(5).

IV.

CLASS ACTION ALLEGATIONS

7. Class Representative brings this Class Action against Defendant on behalf of himself and all other individuals who received dunning letters from Defendant regarding an alleged debt owed resulting from residential real estate which was sold by way of a “short sale.”

8. Defendant's debt collection methods as set forth herein have been and are continuing.

9. As the Class Representative, Plaintiff, on behalf of himself and the class, seeks to represent, equitable and legal remedies including monetary and nonmonetary remedies necessary to redress Defendant's violations of the FDCPA.

10. The Class is so numerous that joinder of all members is impracticable as the scope of Defendant's debt collection activities reach is so geographically extensive.

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11. The questions of law and fact are common to the class as the class action is based on FDCPA violations for individuals that received Defendant's collection letters as set forth herein.

12. The claims of the Class Representative claims are identical to those of the Class.

13. The Class Representative will fairly and adequately protect the interests of the Class.

V.

FACTUAL ALLEGATIONS

14. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant's conduct violated the FDCPA in multiple ways, including but not limited to:

- a. Engaging in conduct the natural consequence of which is to harass, oppress, or abuse the consumer. 15 U.S.C. § 1692d;
- b. Making false, deceptive or misleading representations regarding the character and status of the debt. 15 U.S.C. § 1692(e);
- c. Using unfair or unconscionable means against our clients in connection with an attempt to collect a debt 15 U.S.C. § 1692(f).

15. Defendant's aforementioned violations of the FDCPA are based upon the following:

- a. Defendant sent Plaintiff a dunning letter dated December 16, 2011 (“Dunning Letter”) regarding an alleged debt owed to “CITI MORTGAGE” (“Citibank”), for a deficiency balance on real property.
- b. Defendant had recently sold the real property at issue herein by way of a “short sale.” Prior to finalizing the short sale Plaintiff obtained written confirmation from Citibank that the deficiency balance on the real property would be waived and therefore not pursued. Plaintiff therefore did not owe

Citibank any monies.

- c. Defendant sent Plaintiff a dunning letter even though they knew he did not owe the original creditor any monies. The purpose of this dunning letter was to harass, oppress and abuse Plaintiff.
- d. Additionally, the Dunning Letter made false, deceptive and misleading representations regarding the character and status of the alleged debt – i.e. that Plaintiff owed “\$84,921.55” and “[b]ecause of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater” when in fact he did not owe the creditor any monies.
- e. Finally, it was unfair and unconscionable for Defendant to attempt to seek financial gain from Plaintiff, when in fact, Plaintiff did not owe any monies to the original creditor, or Defendant.

16. Defendant's aforementioned violations of the FDCPA also constitute an invasion of Plaintiff's right to privacy, causing injury to Plaintiff's feelings, mental anguish and distress.

17. Defendant's aforementioned violations of the FDCPA also constitute an intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life, conducted in a manner highly offensive to the reasonable person. With respect to these activities of Defendant, Plaintiff had a subjective expectation of privacy that was objectively reasonable under the circumstances.

VI.

FIRST CLAIM FOR RELIEF:

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

18. Plaintiff reincorporates by reference all of the preceding paragraphs.

19. As a direct and proximate cause of the acts described above, Plaintiff has sustained and suffered damages.

20. The Defendant's conduct as alleged herein was willful, intentional, oppressive, fraudulent, malicious, and done in reckless disregard of the rights of Plaintiff, thereby warranting

1 the imposition of punitive damages.

2 21. Plaintiff has been forced to retain the services of legal counsel and Plaintiff is
3 entitled to an award of reasonable attorneys' fees.

4 **SECOND CLAIM FOR RELIEF:**

5 **COMMON LAW INVASION OF PRIVACY BY INTRUSION**

6 22. Plaintiff reincorporates by reference all of the preceding paragraphs.

7 23. As a direct and proximate cause of the acts described above, Plaintiff has
8 sustained and suffered damages.

9 24. The Defendant's conduct as alleged herein was willful, intentional, oppressive,
10 fraudulent, malicious, and done in reckless disregard of the rights of Plaintiff, thereby warranting
11 the imposition of punitive damages.

12 25. Plaintiff has been forced to retain the services of legal counsel and Plaintiff is
13 entitled to an award of reasonable attorneys' fees.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the
16 Defendant, on all counts, for the following:

17 1. Declaratory judgment that Defendant's conduct violated the FDCPA;
18 2. Actual damages;
19 3. Statutory damages;
20 4. Punitive damages;
21 5. Costs and reasonable attorneys' fees; and
22 6. For such other and further relief as the Court may deem just and proper.

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JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), 42 U.S.C. § 1982(a)(1) and the Seventh Amendment to the United States Constitution, Plaintiff hereby demands a trial by jury.

DATED this 1st day of May, 2012.

COGBURN LAW OFFICES

By: /s/ Larson A. Welsh, Esq.
JAMIE S. COGBURN, ESQ.
Nevada Bar #8409
LARSON A. WELSH, ESQ.
Nevada Bar #12517
9555 S. Eastern Ave., Suite 280
Las Vegas, NV 89123
Attorneys for Plaintiff

COGBURN LAW OFFICES
9555 S. Eastern Ave., Suite 280
Las Vegas, Nevada 89123
(702) 384-3616 FAX: (702) 943-1936